



[Docket No. FR-7056-N-10]

60-Day Notice of Proposed Information Collection: Comprehensive Transactional Forms Supporting FHA's Section 242 Mortgage Insurance Program for Hospitals, OMB Control No.: 2502-0602

AGENCY: Office of the Assistant Secretary for Housing – Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: Comments Due Date: **[Insert date that is 60 days after the date of publication in the Federal Register.]**

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410-5000; telephone 202-402-3400 (this is not a toll-free number) or email at Colette.Pollard@hud.gov for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410; e-mail Colette Pollard at Colette.Pollard@hud.gov or telephone 202-

402-3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Comprehensive Transactional Forms Supporting FHA's Section 242 Mortgage Insurance Program for Hospitals

OMB Approval Number: 2502-0602.

OMB Expiration Date: November 30, 2022.

Type of Request: Revision of a currently approved collection.

Form Numbers: HUD-2510R, HUD-90032-OHF, HUD-90033-OHF, HUD-91070-OHF, HUD-91071-OHF, HUD-91073-OHF, HUD-91725-OHF, HUD-91725-CERT-OHF, HUD-91725-INST-OHF, HUD-92013-OHF, HUD-92023-OHF, HUD-92070-OHF, HUD-92080-OHF, HUD-92117-OHF, HUD-92205-OHF, HUD-92223-OHF, HUD-92266-OHF, HUD-92322-OHF, HUD-92330-OHF, HUD-92330A-OHF, HUD-92403-OHF, HUD-92403A-OHF, HUD-92415-OHF, HUD-92422-OHF, HUD-92434-OHF, HUD-92441-OHF, HUD-92442-OHF, HUD-92448-OHF, HUD-92452A-OHF, HUD-92452-OHF, HUD-92455-OHF, HUD-92456-OHF, HUD-92464-OHF, HUD-92466-OHF, HUD-92476-OHF, HUD-92476A-OHF, HUD-92476B-OHF, HUD-92479-OHF, HUD-92554-OHF, HUD-92576-OHF, HUD-93305-OHF, HUD-94000-OHF, HUD-94001-OHF.

Description of the need for the information and proposed use:

This collection of information is required specifically for the application and administration of the Department of Housing and Urban Development, Federal Housing Administration Section 242 Hospital Mortgage Insurance Program pursuant to 24 CFR 242, 241, 223(f), and 223(a)(7).

The collection is a comprehensive set of HUD documents that are critically needed for processing applications and loan endorsements for FHA mortgage insurance under the Section 242 Hospital Mortgage Insurance Program, for ongoing asset management of such facilities, and other information related to these facilities for loan modifications, construction projects, and physical and environmental reviews. This information is requested and is used by the Office of Healthcare Facilities (OHF) and Office of Architecture and Engineering (OAE) within FHA's Office of Healthcare Programs (OHP).

The purpose for which the information is being collected by HUD is to review Section 242 applications to determine the eligibility of applicant hospitals for FHA mortgage insurance, underwrite insured hospital loans, ensure that the collateral securing each loan is adequate, capture administrative data, process initial/final endorsement, and manage FHA's hospital portfolio. Additional information related to loan modifications, construction projects, and physical and environmental reviews is collected if applicable.

The information being collected consists of various HUD forms that program participants complete with project specifications, technical descriptions, details, and/or signatures that are utilized by HUD during various stages of the application, underwriting, commitment, closing, and asset management processes involved with the administration of FHA's Section 242 mortgage insurance program.

The information is used by HUD staff for internal review of applications to determine if projects qualify for Section 242 hospital mortgage insurance and to manage and monitor the application, commitment, initial/final endorsement, asset management, and administration processes needed to support hospital projects insured by FHA. Agreements and legal documents are used by HUD staff, lenders, borrowers, construction managers, and depository institutions, when applicable, to process initial/final endorsement of loans. Information reported for ongoing asset management of FHA-insured facilities will be used by HUD staff to monitor and manage risk within the FHA portfolio and ensure ongoing compliance with HUD Program Obligations. Information is also

used by HUD staff to determine whether the Program meets its stated goals and management objectives. The information is collected from lenders/mortgage bankers, borrowers/hospital management officials, attorneys, general contractors/construction managers, architects/engineers, agents and others involved in hospital projects, which may, at times include local government entities and other third parties, as well as HUD staff to allow OHF to manage and monitor the application, commitment, initial/final endorsement, asset management, and administration processes needed to support hospital projects insured by FHA.

This collection is needed to update and renew the current collection that was approved for a 36-month period by OMB on November 12, 2019, with an expiration date of November 30, 2022.

Three new forms are being added to this collection that are listed in the table above: HUD-90032-OHF (Lender Narrative - Interest Rate Reduction), HUD-90033-OHF (Lender's Certification in Support of Request for IRR), and HUD-2510R (Release of Regulatory Agreement). The HUD-90033-OHF and HUD-90032-OHF are being added for occasional situations involving interest rate reductions of FHA-insured hospital loans. The forms allow the lender to summarize the rationale for the request and certify that programmatic requirements for interest rate reductions have been met. The documents are based on OHF draft guidance as well as similar forms used by the Section 232 program. The HUD-2510R has been added to facilitate the process regarding the release and discharge of the Regulatory Agreement.

Two forms will be removed from the collection: HUD-91111-OHF (Survey Instructions and Borrower's Certification) and HUD-94128-OHF (Environmental Assessment and Compliance Findings for the Related Laws). The HUD-91111-OHF will be removed from the collection and the information from this form has been combined with HUD-91073-OHF (formally: HUD Survey Instructions and Surveyor's Report; and now renamed: HUD Survey Instructions, Surveyor's Report, and Borrower's Survey Certification). The HUD-94128-OHF will be removed from the collection because HUD's Environmental Review Online System (HEROS) is now used to prepare environmental reviews.

The Public Burden Statement and the Warning have been revised on all forms.

Three documents within the collection are being renewed with only changes to the revised Public Burden Statement and the Warning. The remaining thirty-seven of the forty forms within the collection are being renewed with changes. Revisions include edits that were made to clarify current policies and definitions, reflect updated general accepted accounting standards, or to address inconsistencies across documents.

A summary of the specific changes (beyond the Public Burden Statement and the Warning) made to the revised documents is provided below.

Summary of Changes to Documents:

- HUD-2510R Release of Regulatory Agreement. New document added to facilitate the process regarding the release and discharge of the Regulatory Agreement. This form will be used by the Office of Hospital Facilities, the Office of Residential Care Facilities, and Multifamily. The Number of Respondents will take the respondents from all three offices into consideration.
- HUD-90032-OHF Lender Narrative - Interest Rate Reduction. New document based on an existing Office of Residential Care Facilities application form to request an interest rate reduction, modified for Section 242-insured hospitals.
- HUD-90033-OHF Lender's Certification in Support of Request for IRR. New document based on an existing Office of Residential Care Facilities application form to request an interest rate reduction, modified for Section 242-insured hospitals.
- HUD-91070-OHF Consolidated Certifications Borrower. Changes were made to the parts of the certification as follows:
 - Instructions. Added Feasibility Consultant as an option. Removed N/A from each line to improve readability.
 - Part VII. Added a new section, similar to the Supplemental Underwriting section on existing Office of Residential Care Facility form. Specifically, added

questions on delinquency of federal debt; legal action and judgements; bankruptcy question; liens (liens must be addressed prior to closing); investigations; and physician involvement.

- Part VII. Re-organized the list of entities. Added additional lines for “Other” categories. Made consistent with page 1-2 of the form.
- HUD-91071-OHF Escrow Agreement for Off-site Facilities. Changes were made to the sections of the agreement as follows:
 - Section D. Added new language to allow for extensions for up to 90 days which must be submitted in advance to HUD and the Lender with a detailed explanation for the extension. This was an issue during the pandemic because the document did not have any specific language to allow for extensions during a shutdown.
 - Agreement #1 and #8. Capitalized Depository Institution and added that Depository Institution must be satisfactory to HUD as well as the Lender.
 - Agreement #5 and #7. Lender was added as recipient of requested information. Added specific references to documents to be used for disbursements.
- HUD-91073-OHF HUD Survey Instructions, Surveyor’s Report, and Borrower’s Survey Certification. Combined HUD-91111-OHF and HUD-91073-OHF into a new updated HUD-91073-OHF HUD Survey Instructions, Surveyor's Report and Borrower's Certification. Updating ALTA /NSPS Standards to latest version (2021) and revising additional requirements. Clarifying language for when the Borrower's certification can be used. Also updated Table A requirements.
- HUD-91725-OHF Opinion by Counsel to the Borrower. Changes were made throughout to add clarity.
- HUD-91725-INST-OHF Instructions to Opinion of Borrower's Counsel. Only the Warning has been revised.

- HUD-91725-CERT-OHF Exhibit A to Opinion of Borrower's Counsel Certification.

Only the Warning has been revised.

- HUD-92013-OHF Application for Hospital Project Mortgage Insurance. Changed the document from a Word document to an Excel document. This allows the user to enter data, which is totaled where necessary. Added a Schedule so that 92013-line items may be broken out into components.
- HUD-92023-OHF Request for Final Endorsement of Credit Instrument. Changes were made to clarify minor inconsistencies within the document, and an update was added to reflect email submission rather than standard mail.
- HUD-92070-OHF Lease Addendum. Removed the Instruction language for brevity, which is consistent with the existing Office of Residential Care Facilities form. Capitalized Tenant, Landlord, and Lender throughout the document for clarity. Added “from an FHA Lender (Lender)” to clearly define Lender in the transaction. Removed the language above the signatures indicating “certifies under penalty of perjury” because this language is not customary for a Lease Addendum, as there are no statements or representations provided.
- HUD-92080-OHF Change of Mortgage Record. Only the Public Burden Statement and the Warning have been revised.
- HUD-92117-OHF Borrower’s Certification - Full or Partial Completion of Project. Added language to #5 to clarify that the requirement pertains to the advance.
- HUD-92205-OHF Borrower's Certificate of Known Costs (Section 242/223f, 242/223(a)(7)). Adjusted title of form to include “Insurance Upon Completion,” to differentiate it from the insurance of advances form (HUD-92330-OHF). Clarified terminology in the Instructions on page 1 to include repairs and limited rehabilitation. Corresponding schedules for each item were added to the table for greater clarity. Additional clarification added, which makes explicit that deferred repairs and deferred

limited rehabilitation amounts are to be escrowed. Updated Schedules to explicitly include additional fees and expenses.

- HUD-92223-OHF Surplus Cash Note. Changes were made throughout to add clarity. In Section 2, added clarity to the document by combining sections and eliminated reference “Except as provided in Section 5 below,” Section 5 was eliminated and added to Section 2. Added clarity to payments due under the Surplus Cash Note by adding “and per requirements under the Borrower’s Regulatory Agreement and Commitment for Insurance (if applicable)” (Section 4 eliminated as it is now contained in Section 2). Added “No payments towards the Surplus Cash Note shall be made before final endorsement, unless HUD has approved,” which incorporates Section 7 and provides for flexibility if approved by HUD. (Section 7 eliminated as it is now contained in Section 2).
- HUD-92266-OHF Application for Transfer of Physical Assets. Changes were made to clarify minor inconsistencies within the document and clarify directions as to what entities complete and submit the form.
- HUD-92322-OHF Intercreditor Agreement. Changes were made to the sections of the agreement as follows:
 - Section 1.14 definition for "Facility" changed to reference 24 CFR 242.1.
 - Section 1.15 includes "Pledged Affiliates" as defined in HUD's loan docs.
 - Section 2.3(e) replaces "operator or receiver" with "entity" as Operator is typically used in 232.
 - Section 2.7(f)(iii) removed because this subsection references the Section 232 Operator Regulatory Agreement.
 - Section 3.4(c) clarified what costs are due under current mortgage costs.
 - Section 3.6(c) added language that "notwithstanding any contrary provision contained in the AR Loan Documents, a default under the FHA Loan Documents

shall not constitute a default under the AR Loan Documents if no other default occurred under the AR Loan Documents".

- Section 4.1 changed "donee" to "assignee".
- HUD-92330A-OHF Contractor's Certificate of Actual Cost. Changes were made to the Trade Items, which were updated with latest Construction Specifications Institute (CSI) categories. Also, clarifies that an Attachment A shall be included when/if an Identity of Interest exists.
- HUD-92330-OHF Borrower's Certificate of Actual Cost. Added clarification/typographic changes to improve readability, as well as identify whether the HUD-92330A-OHF is accompanying the certification. Renumbered first 5 items in the table for standardization with other forms and processes.
- HUD-92403A-OHF Borrower's and Architect's Certificate of Payment. Only the Public Burden Statement and the Warning have been revised.
- HUD-92403-OHF Application for Insurance of Advance of Mortgage Proceeds. Updated Instructions to Borrower for electronic submission, to reference budget categories, and add clarity. Updated Instructions to Lender. Replaced the Table to include the Budget Category and references to HUD-92448-OHF, and updated drawings to documents. Updated Instructions to Lender for electronic submission, added Owner cash equity sentence, changed Mortgagor's to Borrower's, and changed escrow to equity. Removed references to an old Handbook 4480.1.
- HUD-92415-OHF Request for Permission to Commence Construction Prior to Initial Endorsement for Mortgage Insurance. Updated wording in introduction to request and Term 1 for continuity. Changed wording in Term 2 to better reflect hospital program policies. Added Term 4 and revised Terms 5 and 7 for clarity, renumbered paragraphs as required. Revised paragraph 8 to match language in Terms 9 and 10 for continuity. Revised Term 9 to add construction manager agreement as an option and revised

language for clarification. Added Term 10 regarding permits to clarify this is a requirement. Revised Terms 13 and 14 for continuity and update paragraph references.

- HUD-92422-OHF Financial and Statistical Data for HUD Reporting. Changes were made throughout to add clarity.
- HUD-92434-OHF Lender's Certificate. Reorganized the introductory section to add clarity and improve readability.
- HUD-92441-OHF Building Loan Agreement. Section 4b - clarified who at HUD should receive the information; changed the report deadline from 45 days after quarter end to 40 days to be consistent with similar report required under Regulatory Agreement.
- HUD-92442-OHF Construction Contract. Updated definitions paragraph to add clarity.
- HUD-92448-OHF Contractor's Requisition Project Mortgages. Changes were made throughout to add clarity.
- HUD-92452A-OHF Payment Bond. Updated to include Construction Managers and Project Description requirement.
- HUD-92452-OHF Performance Bond. Updated to include Construction Managers and Project Description requirement.
- HUD-92455-OHF Request for Endorsement of Credit Instrument & Certificate of Lender, Borrower, & General Contractor. Added Deferred Repairs and Deferred Limited Rehabilitation concepts to existing language, to differentiate Repairs (under 223(a)(7)) and Limited Rehabilitation (under 223(f)) that occur after initial / final endorsement (Deferred). Added paragraph (from Section 242 regulations) regarding required compliance of the Borrower to the Certificate of Borrower section.
- HUD-92456-OHF Escrow Agreement for Incomplete Construction. Updated references to related forms; added paragraphs for sources of escrow funds; and added language for use of remaining escrow funds.

- HUD-92464-OHF Request for Approval of Advance of Escrow Funds. Added document to be forwarded to HUD as well as the Lender. Changes for documents and supporting data to be submitted electronically to HUD - no longer in duplicates mailed to HUD. Clarified signatories for the Borrower for certain sections.
- HUD-92466-OHF Regulatory Agreement – Borrower. Changes were made to sections of the Regulatory Agreement as follows:
 - Section 8(b)(ii)(1) and 8(b)(ii)(3) for Conditions to be Satisfied During and Following Construction. Expanded the report to include “deferred work or limited rehabilitation” for consistency with terminology in this section and clarify terms for Construction or repairs.
 - Section 10(b) for Property and Operation; Encumbrances. Language changed to allow Borrowers to adjudicate liens, etc. in good faith with HUD’s permission.
 - Section 11(f) for Finances and Financial Records. Changed “reasonable time” to “10 business days” to better define the timeline to submit the documents. Added “shall be maintained in accordance with U.S. GAAP” to differentiate from OHF reporting requirements as required in the OHF Handbook. Although it should be obvious, 24 CFR 5.801 for uniform reporting financial standards for HUD programs does not specifically include the 242/OHF Program. Section 11(f) for Finances and Financial Records.
 - Section 11(g) for Finances and Financial Records. Added language to allow HUD or its representatives to ask questions on the finances, operation and condition of the property.
 - Section 13 for Mortgage Reserved Fund (MRF). Added clarifying language on type of account and beneficiary.

- Section 19(a)(i) for Additional Indebtedness and Leasing for Long Term Debt: reordered some of the subsections and added some clarifying language as it relates to proposed debt.
 - Section 19(d) for Additional Indebtedness – Reporting Requirements: Changed the reporting requirements to an annual report due within 40 days of the Borrower's fiscal year.
 - Section 45 for Definitions. Clarified definitions.
- HUD-92476-OHF Escrow Agreement for Deferred Repairs. Renamed Document from "Escrow Agreement for Deferred Work" to "Escrow Agreement for Deferred Repairs" to properly reflect the type of work involved. Similar changes were made throughout document. Added language in Section D to allow for extensions of up to 90 days if needed. Revised chart in Exhibit A to reflect a breakout of costs to be covered by the Escrow for Deferred Repairs.
- HUD-92476A-OHF Escrow Agreement for Deferred Limited Rehabilitation. Renamed Document from "Escrow Agreement for Limited Rehabilitation" to "Escrow Agreement for Deferred Limited Rehabilitation" to properly reflect the type of work involved. Similar changes were made throughout document. Added language in Section D to allow for extensions of up to 90 days if needed. Revised chart in Exhibit A to reflect a breakout of costs to be covered by the Escrow for Deferred Limited Rehabilitation.
- HUD-92476B-OHF Escrow Agreement for Proceeds from Partial Release of Collateral. Only the Public Burden Statement and the Warning have been revised.
- HUD-92479-OHF Off-Site Bond - Dual Obligee. Updated to include Construction Managers and Project Description requirement.
- HUD-92554-OHF Supplementary Conditions of the Contract for Construction. Article 1(B) Minimum Wages updated and clarified per program regulations.

- HUD-92576-OHF Certificate for Need for Health Facility and Assurance of Enforcement of State Standards. Renamed document. Removed unneeded requests for information.
- HUD-93305-OHF Agreement and Certification. Changed wording to reflect regulations for clarity.
- HUD-94000-OHF Security Instrument/ Mortgage/Deed of Trust. Inserted “Pledged Affiliates” where Borrower appears. Updated definitions. Inserted clarifying language to ensure that all project funds are deposited into a DACA. Inserted language in Section 17(b) to allow subordinate liens to be repaid with prior Lender and HUD approval.

HUD-94001-OHF Healthcare Facility Note. In Section 7(a), deleted the language “or in the Borrower’s Security Instrument or in the Borrower’s Regulatory Agreement” because personal liability is not a concept recognized in the Section 242 program, unlike Multifamily and Section 232.

Respondents (i.e. affected public): Not-for-profit institutions; State, Local or Tribal Government.

Estimated Number of Respondents: 718.

Estimated Number of Responses: 1,302.

Frequency of Response: 70.

Average Hours per Response: 118.

Total Estimated Burden: 73,187 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Janet M. Golrick,
Acting Chief of Staff for Housing,
Federal Housing Commissioner, HUD.

[Billing Code: 4210-67]

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